

At the Hearing for Conditional Class Certification, Plaintiffs' counsel casually mentioned that the Defendant had not deposed Piercy. When asked about the pending motion for contempt, however, counsel was unable to address the topic. Therefore, the Court asked the parties to report as to the status of the motion. Plaintiffs respond that they have offered to pay reasonable

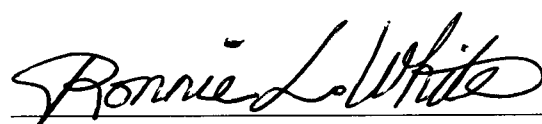
travel costs for Defendant to depose Piercy in Florida, or alternatively, they have offered to produce Piercy for a deposition by videolink. According to Plaintiffs, Defendant rejected both proposals. (ECF No. 99) Defendant reports that Piercy's noncompliance with the Court's Order has prejudiced Defendant by depriving Defendant of its right to complete Piercy's deposition and causing Defendant to incur expenses. (ECF No. 100) Specifically, Defendant asserts that Piercy's violation of the Order deprived Defendant of testimony required for its opposition to the motion for conditional certification. As the issue of conditional class certification has now been fully briefed and orally argued, the Court finds that Piercy is in contempt, and an appropriate sanction is dismissal from this action. Fed. R. Civ. P. 37(b); *Schoffstall v. Henderson*, 223 F.3d 818, 823 (8th Cir. 2000) (finding dismissal may be considered as a sanction upon parties who fail to comply with discovery orders where "there is (1) an order compelling discovery, (2) a willful violation of that order, and (3) prejudice to the other party"); *Chicago Truck Drivers v. Bhd. Labor Leasing*, 207 F.3d 500, 504 (8th Cir. 2000) ("One of the overarching goals of a court's contempt power is to ensure that litigants do not anoint themselves with the power to adjudge the validity of orders to which they are subject.").

Accordingly,

IT IS HEREBY ORDERED that Defendant's Motion for Plaintiffs to Show Cause or be Held in Contempt (ECF No. 83) is **GRANTED**.

IT IS FURTHER ORDERED that Piercy's claims against Defendant Acosta, Inc., are **DISMISSED** without prejudice.

Dated this 11th day of April, 2018.



RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE